

Thursday, April 18 2007

Dear Bill

I'm getting there slowly but surely.

Don't ask where there is. Maybe it's the t-shirt I saw twice in Casuarina yesterday on two different blokes – "same as same as" (two decks).

You get co-incidences like that. I find it amazing how you can get onto the bus with a person, get off at the same place, then shoot off in different directions, only to return four hours and twenty three minutes thirty seconds later to catch the 5.07pm back to Nightcliff, with the same dude either in front of you in the queue or already seated on the same bus. I mentioned that refreshing little co-incidence involving yourself and the mnemonic "Bunji" I heard while caged at reception at Berrimah a couple of Thursday nights ago. The word, when I heard it, came as a double-edged sword – from the mouth of a screw, who used it by the way, in the generic sense, as in:

"That Bunji is back Amos, you know, your mate."

So while the word instantly reminded me of you, it was the jailer speaking. He spoke as if Amos, who I couldn't see, was his friend, and that he, too, was a knockabout bloke. Some have the gall to pretend that they are nothing more. It's the reason I told two of them at the gate as I was about step through (ready for a quick get-away):

"You'll always be failed Nazis, and you know why? Because you slip into character too easily."

Anyway, that Amos seemed friendly to him was not really unusual, nor was it surprising given that there's very few ways to break the feeling of intimidation/claustrophobia that prisoners have inside a cage. Talking with the jailer is one of them.

You know all the stories, Bill. You know about "occupancy" rates at Berrimah: 80 per cent indigenous. I'm still trying to look at the big picture as to why I felt so relatively safe during my two weeks in M-Block ("mainstream", they call it). So far, I can't get beyond the simple conclusion that it was because of the yolngu.

I never saw or heard one aggro incident while I was there, and was made to feel completely at ease among my cellmates, who by my final days in Dorm 4 (M block) were all black (eight of us). The day I lobbed, which was the Tuesday after spending the first Monday in maximum security B block, I was still on alert - wary and not making eye contact with anybody. Then I was shunted into my dorm and immediately spotted a spare upper bunk (read sheetless, pillowless) to my left, which I made for and hauled my stuff on to. At this stage, I knew only that other adult males were present, noisy and moving all around me. There was no ladder to my crib and I quickly realised I had to shimmy up the frame, which I did, as cool as I could look, without trying to attract too much attention. The entire structure didn't wobble that much and had stopped wobbling by the time I'd sorted out my pillow and sheets ("linen" I would later call it). Then I did what most new cons do when they land in the joint – stretch out with hands behind head and stare at the ceiling.

As I began to take in my surroundings, my heart sank at the realisation that this was the asylum. Then, for some reason, I had to get back down, so I did, and because of my then dicky knee, did so gingerly. I didn't think either effort had been all that noticeable. But standing on the concrete floor once more, I found myself looking into the face of a very black youth with a killing smile and large set of beautiful eyes. Pointing down to the bunk beneath mine, which I now realised was obviously his, he said to me, "You can have my bunk if ya like old fella." Immediately put at ease, I smiled back and simply said, "No, you're right bro, thanks anyway," and did whatever it was I'd climbed down to do. My climb had been ungainly, but not too obviously so, I had hoped. In hindsight, the

youth might simply have offered up his bunk because I'd made our bed frame wobble so much and he wasn't looking forward to disturbed sleep with "old fella" up top tossing and turning, then climbing up and back down again at all hours to go to the dorm's communal but private loo. I suspect, though, that it was simply young fella offering old fella, which I was to be mostly throughout the next fortnight, with the occasional "big fella", the easiest of the two beds. I'm pleased to say that since my release on Easter Sunday (I have always hated Easters) my dicky knee seems right as rain, so climbage, or indeed a Day Tour, would not be beyond me. (Isn't it sad how such an inhuman experience can have a positive effect on your body?)

The boy's name was Timmy and I almost broke down in tears a few nights later when he was taking me into his confidence and, in answer to my question, "How long you here for Timmy?" he replied:

"2009 I get out."

He saw my reaction and after pausing, quietly asked me, "How many months till February?" I lifted my head and after a moment, said "about 23."

"That's how long I got left. Twenty three months?" (He'd already done 12 in Alice).

Timmy was in fact 25 and like all his brothers inside (except for a whitey or two) was a fine strapping young male specimen. Earlier, he'd been talking to me and began saying, "I broke her ribs, her arm, her jaw," and I felt myself go into a trance. He'd battered his partner, the mother of the two sons he is so proud of, Xavier and Schabatia(?). But he had "repented" and wanted only to be forgiven by his partner and two boys. I tried my best to reassure him. Several times during our bonding, I found myself silently asking a question that would recur during conversations with other inmates who trusted me enough to give up personal information: What the fuck are you doing here?

Another guy, Parney, was initially the only other white honkey in our cell. We quickly hit it off because he said he was a neighbour of Stuart's, and I have no reason to disbelieve him. He sure had respect, which as you can imagine, is a commodity widely traded inside. It was he who had been making most of the animal noises when I first arrived, causing me to ask another question: "What the fuck am I doing here?" But poor Parney is not a well guy. He's a chain-smoking overweight 30-year-old who I think was using medication to help him sleep and would announce his awaking each morning with rasping coughs and associated animal noises which he made no attempt to conceal for his cell mates, or the five or six in Dorm 3, or indeed, the rest of M-Block. It was Parney who talked me into doing what landed me in solitary.

"I get out next Tuesday," he told me on the first Thursday. "I can take him some letters if you want." I thought for a bit then leapt at the idea. That Friday and weekend I went into a frenzy, writing to Stui, NAP, the Ombudsman, friends, NT Legal Aid, *the Northern Territory News* etc. Annum, the Indonesian fishermen Stui befriended when he was here in 2005-06, also asked to participate in what became known as the "arrangement", though for him, it was simply a last resort to communicate with his mate. He hadn't been able - and probably is still not able - to get a letter out to Stui for more than a year because as he was repeatedly told by the screws, "(Highway) is an activist on the outside and trouble-maker". Not only that, he was told he was not even allowed to *phone* Stui. Annum showed me three letters from Stui that began, "I wrote to you on . . . and have not heard back". This was the intro of the yarn I penned and hoped NAP would get to the *NT News*: *Berrimah prison officers are withholding letters written by an inmate because the recipient is an "activist" and "troublemaker"*.

So our arrangement was shaping up as the great smuggle-out. When Parney came up with another brainwave - to address the envelopes to the Ombudsman - I thought our plan foolproof. Letters

addressed to the Ombudsman and lawyers, apparently, are sacrosanct, so Parney and I were confident we would be able to bypass the mofus. It might have been my zeal that brought us undone, because Parney ended up leaving with a veritable fistful of envelopes, all addressed to the Ombudsman. Having since been told by the big O that screws open *all* unopened letters leaving with about-to-be-free men, I guess he and I were simply victims of "policy", which is *always* bringing undone some poor wretch. I'd done all the addressing, trying to vary the hand-writing as much as possible to make it inconspicuous (yeah right sunshine). Either way, we all took a calculated gamble and the Obey's address, we were sure, would be to the screws as the royal seal is to the messenger. In the first instance, though, correct prison parlance is arsewipe, and it is he who checks prisoners' ingoing and outgoing, stamping envelope and postcard with "Intel".

About the following Thursday my ears pricked to the unmistakable call of the dalek: "Inder-Smith fully dressed, to the white line." (Stui does dalek better than I).

Up I go fully dressed, which is Berrimah rig of shorts, t-shirt and thongs, to be confronted by a dude wearing a ten-gallon hat whose peak still only comes up to my chin:

"You're to be charged with misconduct," the ferret under the hat says. "You tried to smuggle out some documents. You'll face a hearing tomorrow."

To cut a long story short, I attended their two-man donkey hearing and was sentenced to a week in solitary. I had the weekend to launch an appeal, which I did by helicoptering in a team of QCs whose wigs got tangled up in the first man trap, so I had to face my inquisitors alone. Unlike in the *real* world, my appeal failed and my sentence was confirmed, so Monday afternoon, off I went to "Sepcon" – separate confinement.

"Here's your executive suite," Snow said as he threw open the heavy cell door to the one-man bunker. It looked as palatial as a premature burial chamber. Even then, I was indignant because Stui did a *month* in solitary, or so he told the world in his blog (<http://www.napnt.org/blogs/stuart.html>). Regardless, I ended up spending my last 14 days there, which if I'm honest, I suspect was due to my using the words "maggots" and "motherfuckers" to describe the screws during a phone call. A day or two later, I was again called up to the white line of deliverance by Officer Ten Gallon and told I would be charged with using profane language. I *really* felt shafted then because I had only been borrowing from the Highwayman who himself had used the term maggot during one of *his* calls to me in 2005/06. (The actual quote is: "*It's the whole system that is evil, from the prison guards who need their uniforms, to the judges and magistrates, court officials, the police, security guards . . . it's their job. They pray on us. They suck our blood. They need fresh flesh to feed the maggots.*" OK, it's a little more lyrical than my, 'Hi Kaz, the guards here are maggots and mofus', but there's no disguising the metaphor.)

The next fortnight had its moments, not all bad. I'm presently reminding myself of them through shorthand notes I actually did smuggle out on my release. In away, I had the final win.

Anyway, my month was done in two distinct halves, and the first was by far the better of the two, thanks to Timmy and the Daniels brothers, Ron and James. All three are excellent musicians. James and Ron, from Roper River, are proud, dignified and articulate. I didn't get details, nor did I ask, but it's clear that drunken acts of madness landed them where they are and will also remain until 2009 or thereabouts. Here's the lyrics for James's song *Berrimah Blues*, which I intend to sing for their mother, who lives in Kurringal flats:

*It's 7 o'clock, time to get up
did you hear the siren sound?
It's that time when they come on down
and push us all around
Know they got nothin better to do
than to put their little problems on you*

*chorus: so Hey my brother keep your head up
it's just the same old Berrimah Blues
they put on me and you*

*Just remember that one day
you'll be walking free out of this jail
so stay calm stay cool and don't be a fool for the fool
put a smile on your dial every day and beat them at
their own silly game*

I told Murray McLachlan at the ABC about the boys, who are preparing for Naidoc week in July and rehearsing for an outdoor concert due to be staged at the prison, which I find hard to believe. Anyway, Murray and I agreed it would be a good piece for *Stateline* and a plug for the boys.

Once again, your postcards were a breath of fresh air and only two of three I received. They are home-made are they not? Both were among the cache of documents that got out with me. The rest of my mail bag was decimated at the final man trap and I fear a shitfight trying to retrieve it. The Ombudsman has already made it clear whose side he/they are on (not mine) and a lawyer advises me to simply begin a "paper trail" to the Director (Correctional Services) and take it from there. That's the same director who has already refused to respond to my letters. Holding onto the stuff I tried to smuggle out with Parney is one thing. But what was taken at the 11th hour of my release, including personal observations ("intellectual property" I called it) was nobody's business but mine and has nothing to do with prison "security", which the ombudsman reminds me is, after all, what is at stake. (Yeah, how about gratuitous strip searches?)

I made a positive out of a negative but it's a learning curve I wouldn't recommend. Nothing Stui told me could have prepared me for the ugly reality. Blessedly, there are no nightmares and though I hope not to bore my friends with tales from the inside for the next year or so, there are some things that will forever defy belief (their stupidity being one).

Regarding Kyle's nightmare: What are the chances of a Royal Commission into Sentencing? Would such a thing be possible? Has there ever *been* such a thing? Am I dreaming? Your piece was gut-wrenching. Reading it made me feel selfish and ashamed for what I consider my own travails. Fergal puts a sad but true spin on it all, which is cold comfort for the friends and family, who have my deepest sympathies. The only thing I can offer is that at least Kyle will be receiving tons of respect inside. Another truism that came to me, probably during my chats with the guys, is that the question is not what you did to get inside the hole - it's how badly you were fucked over in the process.

I finish with a letter I sent to *The Australian*, which probably won't get run.

Take care

Inders

Rob Inders

Gaol looms, as case drags on

The last four "parliament invaders" will appear in the Northern Territory Supreme Court tomorrow (Friday, February 23), with gaol terms the likely outcome.

At a brief hearing earlier this week, the four - Stuart Highway, Rob Inder-Smith, Ema Birkeland-Corro and Michael Lambe - were offered the chance to apologise for their actions on May 14, 2002, in which they and five others walked into the NT Parliament while it was in session.

They were charged with disrupting the Legislative Assembly, which then Speaker Lorraine Braham described as an "invasion".

Two defendants, Highway and Inder-Smith, say they will not be apologising.

"It is the politicians who should be apologising to the victims of the war on drugs," Highway, 44, of Nightcliff, said.

"The NT Government should be apologising for their stupid drug laws."

Justice Southwood is expected to reduce the quartet's gaol terms, regardless of whether an apology is given.

Highway, Inder-Smith and Corro were given five months, Lambe three.

The case is one of the longest running in NT history.

Having just completed a stint in Darwin's Berrimah jail, I feel it is time for Australia's prisons to account for their water and power usage.

I was appalled at the waste - especially of water - on a daily basis, literally going down the drain at Berrimah. It wasn't just in the hundreds of litres daily, but thousands.

Territorians are unlikely to suffer water restrictions for the foreseeable future. But if I lived interstate, I would be very concerned at practices hydrological inside our prisons.

Rob Inder-Smith

Nightcliff

Darwin

PO Box 425, MAYLANDS, WA 6931

APRIL 2007

Dear Rob, How are you? I look forward to hearing from you after your release. Until then I will send mail to the prison, hoping that you receive it. I am well, though disappointed that my first job as a consultant was postponed at the last moment because of a funeral. I was due to do a job for Pilbara Iron, doing the same sort of thing I had done for the past two years, only without the middle man. I should be flying up courtesy of PI later this month. Yesterday I visited a guy from Darwin who has done time and knows what you might be going through. I interviewed him about the case of a young fellow named Kyle Horace presently in Berrimah who was falsely accused of rape. The alleged offence occurred when Kyle was 15 years old but he wasn't tried until he was 18, more than two years later. Mr Justice Martin gave his judgment last month, which is on the Supreme Court Web site - incidentally I found the detailed 'Reasons for judgment' of one Robert Paul Inder-Smith, also there for all to read. I am helping Kyle's family create a statement on his case in the hope that the lad may see some justice before his 5 years is out. Meanwhile, can you look him up and have a talk to him inside? His grandfather Norman is pictured in BUNJI. Poor Kyle has a new born baby on the outside who he will not be seeing much until she is of school age.

Bill Day

Mr Rob Inder-Smith

c/- Darwin Correctional
Centre

GPO Box 1407

Darwin

NT 0801

From: rob inder-smith <robindersmith@hotmail.com>
Subject: breath out that sigh of relief
Date: Tue, 20 Feb 2007 16:23:23 +0930
To: <bartlettday@westnet.com.au>
Attachments: 0

Dear Bill

Life's highway has thrown up a twist for the Highwayman and I (and by their defacto involvement, our two co-defendants). How many of these must we who watch endure, you might ask? for good reason. Unless Stui's letter reaches you before this, I am happy to report that we were adjourned AGAIN, this time, till Friday (25/2). The worm turns in all sorts of directions and yesterday's request – nay proposition – by the judge that we apologise for our actions, is one slippery little sucker that Stui and I reckon has backfire potential.

None of us, not least our high-powered legal team, expected this request which came within minutes of the start of play. We were granted a 15-minute adjournment so that counsel could explain to the dumb protesters what the game was.

"The judge has extended an olive branch," we were told carefully by Mr Read, and due respect to him, he is beginning to respect us. After a bit of discussion he began writing out a "compromise" apology – one that would not violate our principals of no-regrets, yet appease Southwood J. As he did, Stui and I engaged quietly and I hinted that this might be the way to go (I know I know, how could I? The moment I even thought about contrition, I was lucky Meyerhoff didn't spring from his grave and strike me down where I was seated, and quite comfortably, too, I might add). None of us had even considered the question, How much less porridge will it mean if we do apologise? A few minutes later, Read was reading out his apology of sorts. He handed his piece of paper to Stui, describing it as "bland", which it was, suitably saccharine and couched the way simpering politicians "apologise" for their misdeeds. Stui assessed it silently and I began looking over his shoulder. Before I could finish reading Stui said one word:

"No".

Then began a train of thought, certainly in my noggin, that culminated in my declaring the same thing, thanks be to Terry Hicks. As my thoughts were coalescing, Stui elaborated:

"We shouldn't be apologising, they should be apologising to us, and to all the people their stupid drug laws have affected, like Vicki Rosepiller."

His stream of consciousness acted as a mnemonic to me, and something Hicks said on radio a couple of years ago in answer to a dumb-arse yank reporter's question, came back to me. The question, asked of Terry after his first and only visit to David in Camp X-ray, was:

"Did David ever express remorse for his actions?"

Hicks told her, "I said David, don't ever apologise something you believe in," and that's exactly what I found myself saying a few seconds after Stui had dropped his bombshell.

Stui's announcement shocked us all, me included. Read was wide-eyed. How stubborn and intractable is this diehard anarchist?, he must have asked. I had my own reasons for seeing an apology as a possible ameliorating ploy. But Stui was not to be deceived. Either in side the surprisingly humble courtroom #4, or during our hunker-down outside in the lobby, he knew that sell-out was not an option. Apologise to the politicians? How could it be countenanced?

And so it was, that we returned after our adjournment and Rocker Read stood up and told the judge, "My clients have advised me that they will not be apologising etc".

In the meantime, Ema's lawyer, Glenn Holden, had phoned her and she had agreed to apologise. We don't in the slightest begrudge this decision. We never ascertained what Ishmael would do (we think he will, which will look

THE last four "parliament invaders" of 2002 will have their final day in court on Monday (Feb 12) when Justice Trevor Riley hears argument for why they should not be jailed.

Northern Territory Legal Aid lawyer Ian Read will tell the Supreme Court that the defendants have not re-offended since they and six others stormed the NT Legislative Assembly while it was in session, and that they are not a threat to the community.

Appealing against their sentences will be Stuart Highway, Rob Inder-Smith, Ema Birkeland-Corro and Michael Lambe.

On March 14, the four and six others smuggled placards into parliament and disrupted debate for about five minutes to protest the widely discredited "Drug House" legislation, which was being passed.

The parliament invasion, as the press labelled it, resulted in tighter security at Parliament House. All the activists were found guilty in Darwin Magistrate's Court later that year, with most being dealt with by Magistrate Dick Wallace.

Self-represented, Highway and Inder-Smith - members of the controversial pro-drug law-reform group the Network Against Prohibition - exhausted their avenues of appeal late last year when they tried unsuccessfully to have their case taken to the High Court of Australia.

The four had pleaded not guilty on the grounds that the Magistrate's Court could not hear the charge, intentionally disturbing the Legislative Assembly while it is in session.

The charge carries a maximum penalty of three years' jail. It was Queensland's equivalent of the same law, Section 61, that Premier Peter Beattie criticised in his parliament last year.

The four charged in the Territory were given jail terms of up to five months. A fifth co-defendant, the NAP's founder Gary Meyerhoff, died last October of an AIDS-related illness, in Perth.

Meyerhoff, who had been driving NAP's legal defence, was wrongfully imprisoned with Highway and Inder-Smith for two days after an administration error in late 2004, while they were free on bail and while the appeals process was still in train.

The trio demanded to be compensated but Attorney-General Peter Toyne refused and told them to await the outcome of the hearing.

They had appealed the original decision in the NT Court of Appeal before Justice David Angel and then the Full Bench.

The case, one of the longest-running in NT history, has been closely watched by the legal fraternity which was shocked that Magistrate Wallace should impose jail terms.

A sixth man, Scott Richard White, who moved to Tasmania soon after the alleged offence, was given a fully suspended sentence by Chief Justice Brian Martin last year.

But his role in the walk-in was minor.

Highway served three months in Berrimah in 2005/06 for allegedly smashing a police van windscreen at the notorious "sixth smoke-in" in Raintree Park. Because Mr Riley was Highway's sentencing judge, the group sought to have him stand himself down.

But Mr Read says they are insufficient grounds and that Monday's trial will go ahead.

He said the crime did not warrant jail time.

Inder-Smith & Ors v Tudor-Stack [2007] NTSC 11

PARTIES: ROBERT PAUL INDER-SMITH
STUART HIGHWAY
EMA BIRKELAND-CORRO and MICHAEL LAMBE

v

PAUL FRANCIS TUDOR-STACK

TITLE OF COURT: SUPREME COURT OF THE NORTHERN TERRITORY

JURISDICTION: SUPREME COURT OF THE NORTHERN TERRITORY EXERCISING
APPELLATE JURISDICTION

FILE NOS: JA 100, JA 102, JA 103 & JA 104 of 2003 (20207624, 20207648, 20207651 &
20207640)

DELIVERED: 26 February 2007

HEARING DATE: 12 February 2007

JUDGMENT OF: SOUTHWOOD J

CATCHWORDS:

JUSTICES ACT – Justices appeal – intentionally disturbing the Legislative Assembly while in session – contrary to s 61(a) of the Criminal Code – sentences of imprisonment manifestly excessive – appeal allowed – appellants re-sentenced.

Dinsdale v R (2000) 202 CLR 321; Hoare v The Queen (1989) 167 CLR 348; Veen v The Queen [No 2] 164 CLR 465, applied

REPRESENTATION:

Counsel:

First Appellant: I Read

Second Appellant: I Read

Third Appellant: G Holden

Fourth Appellant: Self represented

Respondent: A Elliott

Solicitors:

First and Second Appellants: Northern Territory Legal Aid Commission

Third Appellant: Self represented

Respondent: Office of the Director of Public Prosecutions

Judgment category classification: B

Judgment ID Number: Sou0739

Number of pages: 16

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA

court should never exceed that which can be justified as appropriate or proportionate to the gravity of the crime considered in the light of its objective circumstances": Hoare v The Queen (1989) 167 CLR 348 at 354; Veen v The Queen [No 2] (1988) 164 CLR 465.

[22] Each of the appellants should have been sentenced on the objective circumstances of his or her offending and sufficient weight given to the matters personal to each of the appellants. In imposing the sentences of imprisonment that the presiding magistrate imposed on each of the appellants, I consider that the presiding magistrate erred in that the objective facts of the offence committed by each appellant and the personal circumstances of each appellant were such that each of the sentences of imprisonment was manifestly excessive: Dinsdale v R (2000) 202 CLR 321.

[23] While the conduct of each of the appellants created a serious disturbance and was deliberate and the conduct of Ms Birkeland-Corro and Mr Inder-Smith was extremely disrespectful; significant weight should be given to the following factors: the appellants gained entry through an unlocked door, the appellants were behaving conscientiously, the disturbance to the session of the Legislative Assembly was of very short duration, the actions of each of the appellants were non-violent and non-malevolent, it was unnecessary for a significant number of the Members of the Legislative Assembly to leave the Chamber of the Legislative Assembly, those Honourable Members who wished to leave were able to leave while other Honourable Members chose to remain in the Chamber, there was not a great deal of resistance given by the appellants to being removed from the Chamber of the Legislative Assembly, order was quickly restored and the appellants are not ordinary criminals. Significant weight should also have been given to the fact that Ms Birkeland-Corro was only 22 years of age and she had no prior convictions.

Orders

[24] I make the following orders:

1. The appeal by each appellant against the sentence imposed on them by the Court of Summary Jurisdiction is allowed.
2. The sentence of imprisonment that was imposed on each appellant by the Court of Summary Jurisdiction is set aside.
3. The conviction of each of the appellants of the offence of intentionally disturbing the Legislative Assembly while in session on 14 May 2002 contrary to s 61(a) of the Criminal Code is confirmed.

Re-sentence

[25] I re-sentence each of the appellants as follows. Robert Inder-Smith is sentenced to eight months imprisonment. The sentence of imprisonment is to be suspended after he has served one month of actual imprisonment on the conditions that: he is not to enter Parliament House in Darwin for a period of two years from today; and he is not to associate with the appellants Stuart Highway, Ema Birkeland-Corro and Michael Lambe, either jointly or severally for a period of one year from his release from prison. Pursuant to s 40(6) of the Sentencing Act I specify that he is not to commit another offence punishable by a term of imprisonment for a period of two years from today.

[26] I consider the objective facts of Mr Inder-Smith's offending to be significantly more serious than that of Mr Highway and Mr Lambe. The trespass upon the parliamentary table significantly elevated the level of the disturbance caused by the demonstrators. His offence was also aggravated by the fact that he committed it while on bail for another similar offence. In sentencing Mr Inder-Smith I have also had regard to various references that were tendered on his behalf. The references

establish that Mr Inder-Smith has worked as a journalist in the past and that he is a voluntary carer for a profoundly autistic teenage boy.

[27] Stuart Highway is sentenced to six months imprisonment. The sentence of imprisonment is suspended forthwith on conditions that: he is not to enter Parliament House in Darwin for a period of two years from today; and he is not to associate with the appellants, Mr Inder-Smith, Ms Birkeland-Corro and Mr Lambe, either jointly or severally for a period of one year from today. Pursuant to s 40(6) of the Sentencing Act I specify that he is not to commit another offence punishable by a term of imprisonment for a period of one year from today.

[28] In sentencing Mr Highway I have also had regard to various references that were tendered on his behalf. The references are to the effect that he is a very community spirited person who has been engaged in community work. For a period of time he worked with the Asia Pacific Support Collective in East Timor assisting Timorese individuals and Non Government Organisations as an interpreter and in proposal writing.

[29] Pursuant to s 13(1) of the Sentencing Act Ms Birkeland-Corro is released upon her giving security herself in the sum of \$500 own recognisance that she will appear before the court if called upon to do so during the period of two years; that she will be of good behaviour for two years from today; that she is not to associate with the appellants, Mr Inder-Smith, Mr Highway and Mr Lambe, either jointly or severally for a period of one year from today.

[30] While the objective facts of Ms Birkeland-Corro's offending were more serious than that of Mr Inder-Smith, I have given significant weight to the following mitigatory factors: she was only 22 years of age at the time of her offending; she had no prior convictions; she is now in gainful employment and she has apologised in writing to the Speaker of the Legislative Assembly. The apology was received by the Speaker of the Legislative Assembly, The Honourable Jane Aagaard, on 23 February 2007. The apology stated as follows:

I wish to apologise for my actions in entering Parliament while the Parliament was in session.

I realise now that what I did was wrong and showed great disrespect for Parliament.

I regret any distress or inconvenience caused to any of the members present.

I have had a number of years to reflect on my actions, and state that I would not do anything similar.

[31] A report from a consultant clinical psychologist, Mr BJ Healey, was also tendered on behalf of Ms Birkeland-Corro. Mr Healey examined Ms Birkeland-Corro on 9 February 2007. In his report he stated that during the interview Ms Birkeland-Corro manifested self-reproach and a realisation of the need for more rational thought by those wishing to advance a particular cause. She has also expressed shame and regret to her friends and associates. Ms Birkeland-Corro now resides in Melbourne. Since mid 2005 she has been working at the IT 'help desk' at the RMIT University. A reference from her employer was provided to the court. The reference states that Ms Birkeland-Corro is a reliable, honest and punctual employee.

[32] Michael Lambe is sentenced to six months imprisonment. The sentence of imprisonment is suspended after he has served one month of actual imprisonment on conditions that: he is not to enter Parliament House in Darwin for a period of two years from today; and he is not to associate with the appellants, Mr Inder-Smith, Mr Highway and Ms Birkeland-Corro, either jointly or severally for a period of one year from his release from prison. Pursuant to s 40(6) of the Sentencing Act I specify that he is not to commit another offence punishable by a term of imprisonment for a period of two

years from today.

[33] By his submissions to the court Mr Lambe revealed that he remained utterly devoid of any remorse or contrition for his conduct. He still obdurately believes that his conduct was justified. In my opinion there is a risk that he may re-offend. Personal deterrence remains a significant factor. It necessitates that he be incarcerated for a short period of time.

[34] In sentencing Mr Lambe I have also had regard to various references that were handed to the court. The references were to the effect that Mr Lambe is currently the Mindil Beach Sunset Market Association Webmaster and that he is also part of the Mindil Beach Site Crew. Mr Lambe has provided considerable assistance to the Kumbutjil Association at the One Mile Dam Aboriginal Community in publicising their problems and in negotiations with the Northern Territory Government and various Government Departments.

[35] In my opinion the sentences that I have imposed on each of the appellants vindicate the authority of Parliament, demonstrate to all citizens that the kind of disturbance created by the appellants will not be tolerated and are sufficient to deter each of the offenders from committing similar acts in the future. Citizens of the Northern Territory, such as the appellants, are entitled to demonstrate if they please for the causes in which they believe but they must do it by lawful means.
